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FISCAL IMPACT STATEMENT

LS 7514

BILL NUMBER: HB 1428

NOTE PREPARED: Mar 16, 2009

BILL AMENDED: Mar 10, 2009

SUBJECT: Unlawful Manufacture or Sale of Police or Fire Insignias.

FIRST AUTHOR: Rep. Tincher

FIRST SPONSOR: Sen. Waterman

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes it unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor, for a person to knowingly or intentionally manufacture and sell or offer for sale:

- (1) an official badge or a replica of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state; or
- (2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or a political subdivision of the state; without the written permission of the chief executive officer of the law enforcement agency or fire department.

It makes the offense a:

- (1) Class D felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit the offense of impersonation of a public servant; and
- (2) Class B felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit an offense involving weapons of mass destruction.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) There are no data available to indicate how many offenders may be convicted of manufacture or sale of a police or fire insignia, a Class A misdemeanor, or one of the enhanced felony offenses. County costs may increase if an offender is incarcerated in a county jail, or the

state may incur costs for the incarceration of a felony offender. Fine revenue for both misdemeanor and felony offenses is deposited in the Common School Fund.

Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor, and a Class B felony is punishable by a prison term ranging from 6 to 20 years. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months and for all Class B felony offenders is approximately 3.7 years.

Explanation of State Revenues: (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B or Class D felony is \$10,000, and the maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: (Revised) A Class A misdemeanor is punishable by up to one year in jail, and a felony defendant may be detained in a county jail prior to a court hearing which may increase local expenditures for jail operations. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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